THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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W.P.No.17323 OF 1996

DATED: 17.01.2007

Between:

P. Kameshwar Swaroop …
Petitioner

AND

The Presiding Officer,
Addl. Labour Court, Chandra Vihar,
First Floor, M.J. Road, Hyderabad
and another …Respondents

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WRIT PETITION No.17323 of 1996

ORDER:

Aggrieved by the award of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, dated 03.11.1995, in I.D.No.18 of 1994, the petitioner-workman has approached this Court.

The petitioner was appointed as a Draughtsman on 14.02.1990. He was served with charge-sheet dated 14.10.1993, wherein seven charges were framed against him. The petitioner is said to have admitted his guilt in his explanation dated 21.10.1993 and to have sought apology. This fact was disputed by the petitioner contending that an ante-dated letter was taken from him when he sought re-employment after his services were terminated. The petitioner submitted his explanation on 25.10.1993 denying the charges.

His services were terminated, by order dated 22.11.1993, with retrospective effect from 14.10.1993. Aggrieved thereby, the petitioner approached the Labour Court. The Labour Court, after a detailed consideration of the evidence, observed that there was some negligence on the part of the petitioner but since HW2, the Deputy Manager, has admitted that the work of the petitioner was good till December, 1992, the Labour Court held that termination of the services of the petitioner was not justified, and passed an award directing the respondent to reinstate the petitioner with wages from September to November, 1993 but without wages from December, 1993 till one month after publication of the award. The Labour Court further held that if the respondent was not willing to reinstate the petitioner, as he was doing technical work and if the Executive Director was not satisfied

with his work, he could be paid wages from September to November, 1993 and Rs.10,000/- as compensation in lieu of reinstatement.

While Sri N. Janakirama Rao, learned Counsel for the petitioner, would seek to make submission on merits, it is well settled that this Court, while exercising jurisdiction under Article 226 of the Constitution of India, does not sit in an appeal over findings of fact recorded by the Labour Court nor does it reappreciate the evidence on record to come to a conclusion different from that arrived at by the Labour Court. It is only if the findings are perverse or are based on no evidence, would this Court be justified in setting aside the award of the Labour Court. The conclusion drawn by the Labour Court that there was some negligence on the part of the petitioner is based on the evidence on record and does not necessitate interference.

It is also well settled that, on the termination of workman being set aside by the Labour Court, it is open for the Labour Court to direct reinstatement of the workman or to award compensation in lieu of reinstatement. In the case on hand the Labour Court, while directing reinstatement of the petitioner, had left it open to the respondent, in case he did not choose to reinstate the petitioner, to pay him compensation of Rs.10,000/- in lieu of reinstatement and wages from September to November, 1993. The Labour Court in exercise of its powers under Section 11-A of the Industrial Disputes Act, has awarded compensation in lieu of reinstatement. The award of the Labour Court does not call for interference in proceedings under Article 226 of the Constitution of India.

Sri N. Janakirama Rao, learned Counsel for the petitioner, would submit that even the compensation awarded by the Labour Court has

not been paid to the petitioner and the cheque offered by the respondent towards payment of the amount was dishonoured. While the award of the Labour Court does not call for interference in proceedings under Article 226 of the Constitution of India, it is made clear that the order now passed will not preclude the petitioner from executing the award of the labour Court in accordance with law.

Subject to the above observations, the writ petition is dismissed. No order as to costs.

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RAMESH RANGANATHAN,J

Date:17.01.2007
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